

PATENT

REMARKS

In the Office Action, claims 6 and 20 are objected to because of informalities.

In the Office Action, claims 1, 6, 9, and 11 rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,733,310 to Lopin et al.

In the Office Action, claim 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 5,733,310 to Lopin et al.

In the Office Action, claims 3-5, 7, 8, 10, 12-16, and 18-2 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In the Office Action, claims 20 and 21 are allowed over the prior art of record.

In response thereto, claims 1 and 11 have been amended. Accordingly, claims 1-16 and 18-21 are now pending. Following is a discussion of the patentability of each of the pending claims.

Preliminary Matter

With regards to the objection of claims 6 and 20 because of informalities, the word "the" (claim 6, line 2) and the word "second" (claim 20, line 1) are spelled correctly. As such, claims 6 and 20 have not been amended due to informalities. A copy of page 4 and 8 of the Amendment dated May 26, 2004 is included as Exhibit A.

Independent Claim 1

Claim 1 recites an implantable defibrillator comprising a set of capacitors and a switching circuitry to generate a first phase of a biphasic defibrillation pulse wherein the first phase of the waveform has at least three distinct voltage peaks. The Lopin et al. reference does not disclose or suggest providing a biphasic defibrillation pulse with an implantable defibrillator. The Lopin et al. reference is directed to external defibrillators to provide biphasic defibrillation pulses.

It is apparently conceded in the Office Action that the Lopin et al. reference does not disclose an implantable defibrillator. For this reason, it appears the Examiner states that the word "implantable" in the preamble of claim 1 fails to saliently distinguish the

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invention over the prior art since the preamble does not recite essential structure and does not give "... life, meaning, and vitality," to the claim. In response, claim 1 has been amended to positively claim an implantable defibrillator. In particular, the body of claim 1 recites "an implantable defibrillator."

Accordingly, it is respectfully submitted that claim 1 is in condition for allowance.

Dependent Claims 2-10

Claims 2-10 depend from claim 1 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 11

For at least the same reasons discussed above with regards to claim 1, it is respectfully submitted that claim 11 is in condition for allowance.

Dependent Claims 12-16, 18, and 19

Claims 12-16, 18, and 19 depend from claim 11 and are similarly patentable. Accordingly, it is respectfully submitted that these claims are in condition for allowance.

Independent Claim 20 and Dependent Claim 21

Claims 20 and 21 are allowed over the prior art of record.

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CONCLUSION

In light of the above claim amendments and remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

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Date

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Enclosure: Exhibit A

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